

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**KENNETH KIRKENDALL,**

**Plaintiff,**

**VS.**

**CIGNA LIFE INSURANCE OF N.Y.  
INC.,**

**Defendant.**

**8:07CV413**

## ORDER

This case is assigned to the magistrate judge for full pretrial supervision.

On October 16, 2007, plaintiff filed a complaint naming CIGNA GROUP, INC. and PFIZER CORP. as defendants. Summonses were issued as to CIGNA GROUP, INC. and PFIZER CORP. Pursuant to Fed. R. Civ. P. 15(a), plaintiff filed an Amended Complaint on November 2, 2007, naming CIGNA LIFE INSURANCE OF N.Y. INC. as the sole defendant, together with a notice of dismissal of his claims against Pfizer Corp.

Rule 15(a) provides that a party may amend the party's pleading "***once*** as a matter of course" at any time before a responsive pleading is served.... Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party[.]" (Emphasis added). On November 6, 2007, however, plaintiff filed a Second Amended Complaint without obtaining leave of court. This document again names CIGNA LIFE INSURANCE OF N.Y. INC. as the sole defendant.

In the interest of judicial economy, and in this instance only, the court will *sua sponte* grant leave for plaintiff to file his Second Amended Complaint.

To clarify the record,

**IT IS ORDERED:**

1. Pursuant to Fed. R. Civ. P. 15(a), plaintiff is hereby given leave to file his Second Amended Complaint, and plaintiff's Second Amended Complaint [8] is deemed properly filed *instanter*.

2. The Clerk shall amend the records of the court and the caption of the case to reflect that CIGNA LIFE INSURANCE OF N.Y. INC. is the sole defendant in this case.

3. Plaintiff is cautioned that he must obtain leave of the court in accordance with Fed. R. Civ. P. 15(a) and NECivR 15.1 before filing any more amended complaints. Future noncompliance with Fed. R. Civ. P. 15(a) and NECivR 15.1 will cause the amended pleading to be stricken from the record.

**DATED November 6, 2007.**

**BY THE COURT:**

**s/ F.A. Gossett  
United States Magistrate Judge**